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Notice of Ex Parte Communication

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

October 8, 2002

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**RE: In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338;
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98;
Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147;**

Secretary Dortch:

Pursuant to Sections 1.1206(b)(1) and (b)(2) of the Commission's rules, Mr. Jay Fausch and I of Alcatel USA, Inc., made an oral and written ex parte presentations to **Mr. Daniel Gonzalez** of Commissioner **Martin's** Office. In this meeting, Alcatel presented the Staff with the attached two (2) page document that outlines several of the positions of Alcatel in the above entitled dockets. The meeting focused on the Commission's unbundling rules and how these rules impact the deployment of broadband capable networks. Specifically, Alcatel requested the Commission recognize that the proper market for analysis is the broadband market as whole, that the new network investments in this market be exempt from the unbundling rules, and the Commission exercise the preemption authority delegated to it in the Communications Act.

If you have any questions, please feel free to contact me at 202-715-3709. Thank you

Sincerely,



Paul W. Kenefick

Attachment

cc: Dan Gonzalez, Esq.

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Who is Alcatel?

- Alcatel is a telecommunications and IT equipment manufacturer that designs, develops, and builds networks enabling carriers and service providers to deliver a wide variety of content across the globe.
- Alcatel operates in more than 130 countries. 49% of its business is in Europe, **17%** in the U.S., **18%** in Asia, and **16%** in the rest of the world.
- Alcatel had revenue of \$25 billion in 2001, and it has approximately 80,000 employees.
- Alcatel is the worldwide and **US** leader in DSL equipment. Worldwide, Alcatel ships 38% of all DSL ports, which is three times more than its nearest competitor. In North America, Alcatel's market share is **78%**, which is ten times that of its nearest competitor.
- Alcatel is also a leader in fiber-to-the-user ("FTTU") technology. Alcatel recently announced contracts to deploy its FTTU technology with SBC in California, in Bristol, VA, and in Chelan County, WA.

Alcatel Before the FCC

- Alcatel is a founding member of the High Tech Broadband Coalition ("HTBC"), which is an ad hoc coalition of a several associations and corporations that participate in all non-carrier aspects of broadband service.
- Alcatel's Chief Technology Officer (Niel Ransom) is a member of the FCC's Technological Advisory Committee. Alcatel has provided tutorials at the FCC on several topics, including **DSL** technology and Broadband Passive Optical Network ("BPON").
- Alcatel has filed comments in several Commission proceedings, including the **§706** Inquiries, the Triennial Review, the Broadband Nondominance Proceeding, and the Wireline Broadband Proceeding.

Alcatel Advocates:

- The Commission recognize that the proper market for analysis is the broadband market as whole, rather than separate markets for DSL services or for cable modem services. This fact has been acknowledged in the Commission's **§706** reports as well as in the *USTA* decision. Intermodal competition, not intramodal, is driving deployment and investment in the broadband market.
- The Commission adopt the position of the HTBC, which calls for an unbundling exemption on all new broadband facilities deployed by the ILECs on the customer side



of the central office. This decision can be supported under both the *UNE Remand* standard as well as the *USTA* standard.

- The Commission reevaluate the premise of unbundling and re-emphasize facilities-based competition and market predictability. Resale and UNE access should remain a viable entry mechanism for CLECs, but facilities-based deployment should be the ultimate goal.
- The Commission remain technologically neutral. DSL, fiber to the user, cable modem, wireless, satellite, etc., all provide for viable broadband platforms, and the Commission should not implicitly or explicitly favor any one technology.
- The Commission declare that NCDLC line cards are not separate network elements and not subject to unbundling or collocation obligations under 6251 analysis. Alcatel's Litespan NCDLC system is widely deployed throughout the country, and proposals to order line card interoperability are not "technically feasible." Even the consideration of such a mandate can have a chilling effect on DLC upgrades and competitive broadband availability to millions of Americans.
- The Commission exercise the preemption authority delegated to it under 66251 & 261 to create additional certainty in the marketplace. Congress specifically delegated this preemption authority to the FCC. State action that obligates an ILEC to unbundle facilities that the FCC has explicitly exempted would be "inconsistent" with the Commission's rules and should be preempted.
- The Commission act on these matters expeditiously.

"Economic recovery in the telecommunications space, as it is for the economy as a whole, rests on spurring capital expenditures. We need service providers buying switches and other equipment from the Nortels, Lucent's and Ciscos, who are even more distressed than the service industry. Such companies are innovators, the R&D arms that have kept the network at the cutting edge of the world. They must survive for our future."

Remarks of Chairman Michael K. Powell at
the Goldman Sachs Communicopia IX Conference [October 2, 2002].

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